



COMMUNITY DEVELOPMENT DEPARTMENT

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PLANNING COMMISSION MEETING MINUTES

REGULAR MEETING

FEBRUARY 8, 2005

PRESENT: Acevedo, Benich, Escobar, Lyle, Mueller, Weston

ABSENT: None

LATE: None

STAFF: Community Development Director (CDD) Molloy Previsich, Planning Manager (PM) Rowe, Senior Planner (SP) Linder, Associate Planner (AP) Plambaeck, and Minutes Clerk Johnson

Chair Weston called the meeting to order at 7:02 p.m., and led the flag salute.

DECLARATION OF POSTING OF AGENDA

Minutes Clerk Johnson certified that the meeting's agenda was duly noticed and posted in accordance with Government Code Section 54954.2.

OPPORTUNITY FOR PUBLIC COMMENT

Chair Weston opened the public hearing.

PM Rowe introduced Kathleen Molloy Previsich, the new Community Development Director, who responded graciously when asked to speak. All the Commissioners welcomed CDD Previsich cordially.

Ascertaining that there were no members of the public present to address the Commissioners on items not appearing on the agenda, Chair Weston closed the opportunity for public comment.

MINUTES

JANUARY 11,
2005

COMMISSIONERS MUELLER/ESCOBAR MOTIONED TO APPROVE THE JANUARY 11, 2005 MINUTES, WITH THE FOLLOWING MODIFICATIONS:

Page 4, paragraph, 4 line 2: ...considering ~~distance~~ *the award of points to parks*
Page 4, paragraph, 6: *meaningful for this competition, but it should be considered by the new 'C' subcommittee for change.*

Page 4 paragraph 7: Commissioner Mueller explained that ~~it is not that~~ *the issue is that Central High School*

Page 4, last line: ~~1,500~~ *15,000* homes

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Page 5, paragraph 8, line 4: ...Schilling told me ~~where~~ *that* the right-of-way exists for all but one of those parcels. ~~Now the applicant wants not to have to purchase west on the right-of-way.~~

Page 5, paragraph 9: ... letter of commitment *for it* with respect to Condit and Main. ~~The question, he said, is in regards to whether the right-of-way is available for building streets.~~ *With respect to Condit and Main, the question is whether the right-of-way is available for building the sidewalk.*

Page 6, paragraph 1: ...housing mitigation fee ~~issue is not clear as printed, and lacks continuity~~ *scoring is confused because a paragraph belonging to criteria #4 was mistakenly located in criteria #3. ... clear on the list.*

Page 6, paragraph 6: #6 Housing Types #2a ~~items 4 and 5 solutions negates this item~~ *needs to be scored consistent with the direction taken for items 4 and 5.*

Page 6, paragraph 8: ~~R1 lot~~ *R2 lots being capable of having*

Page 7, paragraph 7: ~~150~~ *7.5*

Page 9, paragraph 5: Commissioner Lyle ~~indicted~~ *indicated* this project is co-joined by another, *"If the other project and this one have overlapping improvements, in the Micro category, the potential is for both to get points. If both the projects get allocations, how can both of them get the points 'which makes overlapping improvements. In micro projects such as these it is much more difficult to make up the points lost for duplication should both projects get allotments'.* Commissioner Lyle stated.

Page 10 paragraph 4: ... needed(=) ?

Page 12, paragraph 6 (add): *However, he noted that the applicant(s) apparently chose not to do specific things in their projects which could have netted them more points. Vice Chair Lyle continued that the point was that while the vertical mixed use needs to be reevaluated separately, scoring higher is possible if the applicants wanted to commit to the things that could garner points.*

Page 12, last paragraph, line 2: ...saying there ~~are~~ *should be* two...

Page 13, paragraph 4, last line: part 1 2.

Page 16, paragraph 11: ~~easement~~ *9ent easement*

Page 19, paragraph 1, line 2: ~~the tenant~~ *Tennant*

THE MOTION CARRIED WITH THE FOLLOWING VOTE: AYES: ACEVEDO, BENICH, ESCOBAR, LYLE, MUELLER, WESTON; NOES: NONE; ABSTAIN: NONE; ABSENT: NONE.

JANUARY 18,
2005

COMMISSIONERS MUELLER/ESCOBAR MOTIONED TO APPROVE THE JANUARY 18, 2005 MINUTES, WITH THE FOLLOWING MODIFICATIONS:

Page 4, paragraph 7: ~~moderate~~ *median*

Page 5, paragraph 9: ~~exceed 2 yards~~ *feet*

Page 7: Vice Chair Lyle recessed the Planning Commission workshop at 5:57 p.m., with the announcement that discussion would resume following dinner for the Commissioners and staff.

Page 9 c) line 3: Page 9 c) line 3: ~~34 28; line 5 159.5~~ *169.5*

Page 14, paragraph 8: Commissioner Lyle commented that ~~on the global issues,~~ the Schools category ~~of score~~ *for* the project had been reduced by three points [he also reminded that the School District scored this category] *because 4 points had been awarded for a 1 point criteria.*

Page 19, paragraph 7: ~~compiles~~ *competes*

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Page 19, paragraph 8, line 1: ~~used, it is possible to go to page 39, paragraph 2, single family ownership where it is noted that use of one set of scoring, then it becomes multi-family ownership; the argument is how it was scored. then page 39 paragraph 2 governs its scoring. If it is considered a single family ownership project, then paragraph 1 dictates its scoring. The question is should it be considered as a multi-family or single-family ownership project?~~

Page 20, paragraph 2, line 3: ~~that this project~~

Page 21, paragraph 5: ~~....speaking for Mr. Oliver, who could not be present at the meeting the applicant.~~

Page 22, paragraph 10: ~~... commitment on a rate per hour dollars per unit~~

THE MOTION CARRIED WITH THE FOLLOWING VOTE: AYES: ACEVEDO, BENICH, ESCOBAR, LYLE, MUELLER, WESTON; NOES: NONE; ABSTAIN: NONE; ABSENT: NONE.

JANUARY 25,
2005

COMMISSIONERS MUELLER/ESCOBAR MOTIONED TO APPROVE THE JANUARY 25, 2005 MINUTES, WITH THE FOLLOWING MODIFICATIONS:

Page 6, paragraph 6 line 2: (does *not* meet the template standard)

Page 6, paragraph 11, line 2: ~~varying factors~~ *required factors to be considered*

Page 6, paragraph 11, line 4: ~~eases projects; not terribly relevant~~

Page 11, paragraph 6: *BY CONSENSUS, COMMISSIONERS AGREED TO DROP PROJECT PHASES WHICH HAVE ONLY A COMPLETED MODEL LEFT.*

THE MOTION CARRIED WITH THE FOLLOWING VOTE: AYES: ACEVEDO, BENICH, ESCOBAR, LYLE, MUELLER, WESTON; NOES: NONE; ABSTAIN: NONE; ABSENT: NONE.

Commissioner Lyle was excused at 7:09 p.m. for the next agenda item due to the potential for conflict of interest as he lives nearby the subject property.

OLD BUSINESS:

1) ZAA-04-01/
SD-04-16/
DA-04-08:
TILTON-
GLENROCK

A request for approval of a precise development plan for the remaining 18 acre area within the Capriano subdivision located on the south side of Tilton Ave., east of Hale Ave. Also requested is the approval of a 42-lot subdivision and development agreement.

SP Linder reported on the history of the development and the development restrictions placed on the proposed precise development plan. SP Linder reported that the current February 1 submittal had several unresolved items.

Chair Weston explained that the format for discussion would be as follows:

1. Staff would present the issue.
2. The applicant would address the Commission regarding the compliance with the issue.
3. Staff would give a rebuttal.
4. Commission discussion.
5. The Commission would vote on the appropriate direction to resolve issues currently not agreed upon.

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SP Linder advised that Staff is looking for direction on how best to resolve the differences. Commissioner Acevedo stated that as he recalled the Staff report, 8 of 16 were not issues any more. SP Linder said that had appeared to be the case at the time of the meeting with the applicant and the Subcommittee; however, modifications are now being sought by the applicant and these have presented issues. As a result, 14 items remain unresolved at present. Chair Weston said there could be resolution on item 10. Responding to a request from the Chair Weston, SP Linder used a map to explain the location.

Chair Weston asked SP Linder to identify what the problem is with each of the issues.

Issue 1: A clear Overall Project Master Plan is needed, showing where all the BMRs (10% are required in the subdivision of the total number of dwellings) are located, as well as the Moderate Rate housing, together with the locations of all existing and proposed single-story dwellings, and a data table on the RPD which shows the categorical mix of the units. She explained that the applicant has provided an overall plan, but it does not identify the Moderate rate housing placements, nor is there a complete data table. [The R-1 and R-2 areas are not clearly identified; the 10% BMRs are not shown; the Moderate Rate Housing does not appear to have all been identified; the portion of the project (RPD section) which is 'not part of the project' is left out (5 lots)] The applicant did not provide the numbers required, and in the staff report, Page 5, Staff calculations are used.

SP Linder reviewed the Staff recommendations on page 6 of the Staff report.

Chair Weston opened the public hearing.

Rocke Garcia, 1000 Old Quarry Road, San Jose, the applicant, was present to speak to the Commissioners.

Mr. Garcia told the Commissioners that he did agree with/to several of the items, however, he stated that he thought that specifically items 2, 4, 6, 7, 8, 9, 10, 11, and 14 were resolved.

Following are issues identified by SP Linder which have been reported to the Commissioners, Mr. Garcia's responding explanations; and the Commissioners comments:

The need for an overall Project Master Plan, including the number of lots proposed within the areas zoned R-2 and that zoned R-1 12,000. Mr. Garcia said the requirement(s) for the numbers of BMRs, 'Granny units' and Moderate Rate units have been met. Mr. Garcia also noted that when the RPD zoning is granted, the offsite improvements will be finished.

Commissioner Escobar stated that, "When the applicant was asked for information, and it is not included in the documentation, it is frustrating. I don't know if it's not on a map or identified where it is planned; we are merely having a discussion 'in concept'."

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Mr. Garcia replied that only one thing was missing and that is the BMRs.

SP Linder said the lot numbers in the respective zoning districts, moderate rate units and BMRs have been identified by Staff hand count, but are needed on the map and should be proportional to each phase and the map should show variations of large and small units which would indicate 'clustering' has been avoided. It was ascertained that Staff and Commissioners could consider a portion of those for carryover if the numbers could be seen clearly.

Commissioner Mueller agreed that the location of various housing types have not been clearly nor easily identified. Commissioner Mueller said that historically requested BMRs be built within reasonable close distance to a phase. "We have expected this and the developers have done it. It is not new."

Commissioner Escobar stressed the need for consistency.

Commissioner Acevedo said it is most important to keep the units spread out. He asked about possible realignment of the units.

PM Rowe suggested a solution: adjustment of project development phasing.

Commissioner Mueller indicated looking at locations, saying, "We must keep BMRs within the phases, but there can be variation on where the phase line is. Historical precedence says a developer must keep BMRs with the Moderate Rate within a phase. The need to show various types in different locations is a requirement."

BY CONSENSUS VOTE (WITH LYLE ABSENT), THE COMMISSION DIRECTED THE APPLICANT TO COMPLY WITH THE STAFF REQUEST FOR THE ITEMS LISTED UNDER ISSUE 1 AS IDENTIFIED WITHIN STAFF'S REPORT.

Issue 2: Clear identification on the RPD plan of the parcels labeled 'not part of' – and the necessity of parcel/unit count with/without those units.

AGREEMENT BETWEEN THE APPLICANT AND STAFF WAS REACHED ON THIS ITEM.

Issue 3: Elimination of adjacent floor plans in bordering dwellings. [Different models and sizes are required; there are basically three floor plans – these should be spread throughout the project and another model provided (between BMR size and Moderate Rate)] Discussion of varying levels of elevation and square footage of the planned units was discussed.

BY CONSENSUS VOTE (WITH LYLE ABSENT), THE COMMISSION DIRECTED THE APPLICANT TO COMPLY WITH THE STAFF REQUEST FOR THE ITEMS LISTED UNDER ISSUE 3 AS IDENTIFIED WITHIN STAFF'S REPORT.

Issue 5: Provision of a table which includes all of the single-family lot sizes (excluding

BMR and condo parcels) for the whole development.

APPLICANT AGREED TO PROVIDE A COMPLETE TABLE.

Issue 5: Lot coverage percentage increase – involves point adjustment in the Open Space category. [Need for additional park amenity and commitment to purchase of an additional TDC.] This involved the need to have the applicant make up one point.

Bill McClintock of MH Engineering explained that ‘wrong calculations’ had been represented in the application. Mr. McClintock spoke on the potential of making up one point and explained that the payment of fees for 14 units was ‘difficult to swallow’, as 14 units had not been added. “I want to say this project is now better and we have an issue with the Staff’s benchmark. Our benchmark is what was represented in Measure P.” He told how the additional point was warranted: a project of higher quality better in quality with so many better elements than before.

SP Linder advised that adjustments and points must be made up in the same category; in this case, parks/open space.

Lengthy discussion followed about the historically basis for point adjustment. It was noted that recalculation of other projects could result in different points.

PM Rowe stated that the basic question is whether to require the ‘make up point’ within the Open Space category (Staff’s recommendation) or switch to another category? He also pointed out the difficulty in the ability to pick up a point for the application within the refinements the project has already undergone. PM Rowe advised the Commissioners it would be well to consider whether variation setbacks are now achievable. In reviewing the application and identifying the design flaws, is the applicant asking for something after the fact that was requested at the beginning?

Responding to a question, SP Linder said the City asks for setbacks on all projects.

Responding to a question from Chair Weston, Commissioner Mueller said, “As a general rule, points are made up in the same category from which the points were lost. If that is not possible, the points can be made up in another category. Usually the points are lost because the project can not complete some commitment or a change is made which results in the loss of points. Here, we are talking about an extra point that was awarded when the lot coverage calculation was done incorrectly – and carried throughout the application. As a result of the error, the lot coverage was reported as lower than it actually is.”

Chair Weston said the decision would depend on whether the Commissioners agree with the changes proposed by the applicant and if those changes warrant points or require having the applicant provide another amenity.

Commissioner Escobar asked if Staff had an opinion regarding precedence setting for other applicants if this were to be allowed?

SP Linder responded, “It would be unlikely, as this is the first instance where there was

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accidental misrepresentation.” PM Rowe expressed the opinion that it would not be establishing precedence.

Commissioner Mueller remarked that when the Master Plan is submitted, the application – and questions associated with it - will be better.

Issues 6 & 7: Supply a phasing plan for the entire remainder of the project with a maximum of 69 consecutively numbered lots.

Commissioner Mueller again returned to the matter of juggle-phasing lines.

BY CONSENSUS VOTE (WITH LYLE ABSENT), THE COMMISSION DIRECTED THE APPLICANT TO COMPLY WITH THE STAFF REQUEST FOR THE ITEMS LISTED UNDER ISSUES 6 & 7 AS IDENTIFIED WITHIN STAFF’S REPORT.

Issue 8: Need for amendment of te configuration of lot 9, this being at the end of the cul-de-sac and requiring the landscaping to be the responsibility of the HOA. Mr. Garcia explained that when Public Works determines the width of Tilton Ave, then offsite improvements will be installed and the landscaping issues can be resolved. Mr. Garcia also said that he would have no problem with Staff’s recommendation, ‘but if what we are dong with the setback/landscaped area along the railroad tracks is basically a land swap, I feel it would be better for the local homeowner to maintain, not the HOA’.

Commissioner Mueller said he would like to see that land retained by the HOA, but dedicated to the City and maintained by HOA until it is needed by the City.

BY CONSENSUS VOTE (WITH LYLE ABSENT), THE COMMISSION DIRECTED THE APPLICANT TO COMPLY WITH THE STAFF REQUEST FOR THE TWO ITEMS LISTED UNDER ISSUE 8 AS IDENTIFIED WITHIN STAFF’S REPORT.

Assurance that the Nursery School lots remain clearly identified (The applicant agreed.)

Issues 9 – 11: The maximum separation between housing units is 6 feet total. Five foot side setbacks are also required for modified attached units adjacent to single family detached homes. (The applicant agreed.) All units which do not meet the provisions of Ordinance 1641 and 1700 will be considered single family detached.

THE APPLICANT AGREED TO COMPLY.

Issue 12: All the single-family lots on the western edge of the R-2 area shall be a minimum of 9000 sf; it would be possible to move a single-family detached home to a 7500 sf lot at this location.

Mr. Garcia explained the difficulty of obtaining this recommendation and noted this is a ‘biggie’ to him. “Even though the Staff says the current plan does not meet the General Plan intent,” he said, “this particular plan is ‘tucked in behind’ the park, and has a

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minimum of four sets of trees within 200 feet. If there were no trees within the park this wetland area on 'our side' will effectively screen the lots." Mr. Garcia told how his interpretation of section 7.3 of the General Plan differs from what Staff says, as he read from that section: 'shall buffer from Hale Avenue by row of single-family homes'. Mr. Garcia told how lot 7 meets the setback from the retaining wall. "Trying to replace this with a single-family lot would require us having to put in two BMRs somewhere else," he declared.

Chair Weston led discussion of the location of the berm and whether the Water District would play a part in decision making of the issue before the Commission at this time. Commissioner Benich disclosed that he had visited the site and drove around. "I think its fine; looks perfectly good," he explained.

Commissioner Acevedo expressed surprise at the discussion. "It seems covered – why belabor it again?" he asked. PM Rowe explained that following the December meeting, a couple of the Commissioners wanted to review this again and it appeared the consensus was being eroded away.

Commissioner Mueller commented, "Staff is trying to hold to what the General Plan requires, but I think a two-story BMR at this location will have met the spirit of the law."

BY CONSENSUS VOTE (WITH LYLE ABSENT), THE COMMISSION ALLOWED THE APPLICANT TO RETAIN THE TWO BMRS IN THE CURRENTLY PROPOSED LOCATION.

Issue 13: Ordinance 1679 requires the BMR units proposed within the R-2 area shall be of similar product type and density as the other R-2 units proposed.

SP Linder identified that lots 38 – 88 are R-2.

Mr. Garcia said that from the time he first read this section, he did not understand 'product type'. This is similar to all other R-2 products, he said, the only difference being square footage.

Chair Weston reminded he had asked in the Subcommittee meeting about an increase in the size of the BMRs.

In R-1, the difference in size of the BMRs is because of the modified setback units are tighter together and so are on less square footage lots, Mr. Garcia explained, and there was a need to 'dress up the front entrances' that are seen from the street. He declared he just didn't see why there was a need to have an increase of BMR units.

SP Linder reiterated Staff's recommendation: BMRs should be designed to have similar fronts. As proposed, all that can be seen are the BMR garage doors. The BMRs should be designed to have entries similar to the market rate R-2 units. Staff also recommends that a new market rate R-2 model be introduced between the BMR size and the next market rate model size to minimize the current size difference.

Chair Weston commented that the R-2 has been super-sized and the applicant should do

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the BMRs too. Mr. Garcia disagreed.

SP Linder advised the applicant is asking for a new market rate size to reduce the size disparity between the current Market Rate and BMR or increase the size of the BMRs.

Commissioners agreed that there could be an increase in size of BMRs and frequency.

Mr. Garcia spoke on the four different Z lots, the C-elevation, saying, "This is a small lot home, so there is great variation in the size of the units. I don't want to change the Z-lots package, but will do two BMR plans (changing the front entry and adding 200 sf).

Other perceived discrepancies were discussed, with Mr. Garcia reminding that Z-lots must be kept close together. Resolution was reached with the applicant agreeing to include two additional plans and change the front entries per staff's recommendation.

BY CONSENSUS VOTE (WITH LYLE ABSENT), THE COMMISSION DIRECTED THE APPLICANT TO INCREASE THE SIZE OF THE BMR WITH THE INCLUSION OF TWO ADDITIONAL PLANS AND CHANGE THE FRONT ENTRIES PER STAFF'S RECOMMENDATION.

Issue 14: Need for modification of the C plan size to meet the 50% attachment requirement. Mr. Garcia said the application warrants two points if this is achieved, and he says he will comply whether or not he gets the points. The BMR units and Moderate Rate units should not be clustered.

THE APPLICANT AGREED TO COMPLY PER STAFF'S REQUEST.

Issue 15: Clustering of BMR units and Moderate Rate units (move the three "Z-lots" to different locations: The BMR units and Moderate Rate units should not be clustered.

Considerable discussion resulted from this item, with the following points being raised:

- Feathering larger lots from the north to smaller lots to the south
- Applicant's proposal for Z-lots on Tilton, and the resultant inconsistency with feathering
- The lot sizes beside the Nursery School location
- Cost of a medium size house in the area (complaints later, if not buffer with moderate rate homes)
- Mr. Garcia said Z-lots on Fennel were not a possibility

BY CONSENSUS VOTE (WITH LYLE ABSENT), THE COMMISSION DIRECTED THE APPLICANT TO COMPLY WITH THE STAFF REQUEST TO MOVE THE THREE TILTON AVE. "Z" LOTS INTERIOR TO THE PROJECT. STAFF AND APPLICANT TO DECIDE LOCATION.

Issue 16: Confirmation of R-1 and R-2 calculations relating to BMR numbers. SP Linder noted the calculations differ regarding the total number of (BMR) units (Staff says 16 – Mr. Garcia, 15)

Chair Weston asked if this would affect other projects (absolutely); then remarked it

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could set precedence for the future, so the Staff and Commissioners need to concentrate on the total number of units as basis for determining the number of BMRs required.

Mr. Garcia referenced his letter of January 31, saying there is no question that in the total project there will be 21 BMR units. He discussed with Commissioners the methodology for calculating BMRs. "We are now building BMRs and have spread out the BMRs throughout project. We are not to have more than 10 BMRs on Saffron (there are nine). Originally the BMRs were to be on the corners. Now they are to be in R-2. We have been able to disperse throughout the project as modified setback units. We are not disputing the total number of BMR units. We have the correct numbers and want the extra BMR in an R-2 like they did in Central (Warmington).

BY CONSENSUS VOTE OF ALL COMMISSIONERS PRESENT (LYLE WAS ABSENT) THE COMMISSION DIRECTED THAT THE APPLICANT COULD HAVE 15 BMRs WITHIN THE R-1 12,000 ZONING AREA AND 6 WITHIN THE R-2 ZONING AREA.

Chair Weston asked for clarification and identification on the plan of the berm, which he said appears to be in the middle of the road. Staff should review and clarify the road and berm placement prior to returning for action on the applicant request.

With no others in attendance to speak to the matter, the public hearing was closed.

COMMISSIONERS ACEVEDO/ESCOBAR MOTIONED TO TABLE THE MATTER OF ZAA-04-01/SD-04-16/DA-04-08: TILTON-GLENROCK PENDING FURTHER DISCUSSION BETWEEN STAFF AND THE APPLICANT. THE MOTION PASSED WITH THE UNANIMOUS AFFIRMATIVE VOTE OF ALL COMMISSIONERS PRESENT; LYLE WAS ABSENT.

Commissioner Lyle returned to be seated on the dais at 9:41 p.m.

NEW BUSINESS:

2) ZA-04-22: CITY OF M.H.- ACREAGE REQUIREMENT FOR KEEPING OF ANIMALS

A proposed amendment to chapter 6.36 of the Municipal Code to create standards for keeping of livestock in residentially zoned districts and provide a definition for keeping of animals for private purposes.

AP Plambaeck gave the staff report, saying this matter is a result of a review of the standard for keeping livestock within the City limits. In October 2004 the City Council heard comment on this matter and subsequently sent the issue to the Planning Commission to review and amend the Animal and Land Use ordinance. An amendment would allow more animals per acre – or possibly ‘grandfather’ the number of animals allowed per acre. The Council requested the Commissioners to provide recommendations for changing the current Code (Chapter 7.36).

PM Rowe advised that Staff surveyed other Municipalities throughout the Peninsula and discovered the City Ordinance really pertains to large scale operations, and is not designed to address standards for keeping animals in a residential area. The proposed language, he said, suggests many fewer animals than might be considered a commercial operation.

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Commissioner Mueller said he thought the requirement before was a 200-foot separation between corals and adjacent residential with a special permit for less than down to 100 feet. PM Rowe agreed, saying, "Yes, but that is geared to ranching."

Commissioner Lyle asked if there is need to look at two standards: ranching and residential? (Yes)

Chair Weston inquired about swine for household pets and how that would fit into the recommended Ordinance change.

AP Plambaeck explained that swine are not at issue here, neither are household pets.

PM Rowe implied that the Chapter in the Municipal addresses keeping animals only, and the Council is looking at amending the *definition* section and the keeping of large animals. He stressed there is not a proposal to change the section dealing with keeping small animals, i.e., pigs within the City limits; this is just adding definitions.

Commissioner Mueller asked if there is an (large) animal use permit within the Code? PM Rowe said that is possible with Council action, following Commission recommendation. Commissioner Mueller stressed, "I'm thinking 'simplicity'. Why not have a special use permit? I don't understand why this would continue having to go to the council."

Chair Weston opened the public hearing.

The speaker declined to state her name, noting she wished to keep her remarks anonymous. told Commissioners, "Mayor Kennedy told to come here." She explained that: "I have 'nasty' neighbors with lots of animals. There is a rooster that crows all day long and this is anxiety producing. She expounded on the fact that she was upset by the Ordinance: I think this is bad. I beg you to think about it and what will do. "Please think about ramifications of this," the speaker stated. "I can see people and their pets – maybe the City wants some control."

PM Rowe explained that the City can – and will - do something about complaints received regarding the keeping of excess numbers of animals. Chair Weston agreed, saying, "There is a mechanism whereby all those things can be done."

The speaker continued to protest, spoke on the HOA where she lives, and declared that the matter has dragged on in her neighborhood for five years with no positive results.

PM Rowe said, "Enforcement can take a long time but once case file is opened, resolution will move along." He then explained the process involved and outlined for the Commissioners the details of legal provisions for compliance in the matter addressed by the speaker.

The speaker acknowledged, "Well, Larry Ford (City Building Official) has helped." She concluded by asking the Commissioners to take her request under consideration

With no others present to address the matter, the public hearing was closed.

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The Commissioners categorized several issues:

- Exhibit A, Item h – need for further defining differences in residential and commercial operations
- Definition of ~~corral~~ *corral* (doesn't include hutch or pen) [PM Rowe advised that definition was already in the code sections]
- Section 175: 2 animals per acre - maximum with animal use permit
- Ability of youth involved in programs to raise and sell animals for scholarship money
- Areas in the City where an owner has 10 acres; maybe a higher maximum number of animals could be had; might be considered incompatible under this proposal (6.36.175 B would put a 'cap' with some maximum number (not to exceed) two per acre up to a maximum of XX acres
- Animals in the City Parks (these are wild animals and not to be considered under this proposal)

Commissioner Benich stated he likes this proposal, it is private and he thinks it will prevent future problems. With respect to the numbers, he proposed a sliding scale to be included in part a of Exhibit A: A maximum of two adult livestock plus two immature offspring for each 40,000 square feet of property owned, then one adult livestock and one immature offspring per (each) next 20,000 square feet up to a 5 acre may be kept, with a fence placed at a maximum 50 feet from the property line; above 5 acres, the fence shall be 100 feet from the property line.

Staff clarified that this proposal deals with large animals only. The City Council has indicated that the residents of Diana Avenue want to bring back large animals in that area; this allows such action. PM Rowe also stated that the economics of the matter is that 10 acres parcels are not viable for raising commercial based animals. Discussion ensued regarding potential animal production on 10 acres.

Chair Weston called for discussion on residential and commercial differences in this matter. PM Rowe explained that rather than distance between residential and commercial there would be provision instead to apply setbacks for larger lots. He then addressed for clarification the 100/200-foot set backs.

Lengthy discussion regarding set backs and future development, together with the possibility of grandfathering and use of fences was had. PM Rowe explained the current rules. Commissioner Mueller gave an example of a new development which was recently moved and the difficulties of determining placement of the fences. "What constitutes a hardship?" he asked.

Chair Weston identifying some of the issues under discussion: obtaining a special permit if one were to ask for more animals – this could be accomplished by Planning Department administratively; if there is a change in Code, no permit would be required.

AP Plambaeck explained the current practice. PM Rowe said the impetus had been to change the Code to allow two animals per acre. Chair Weston said if a resident wants more than two animals per acre (due to special circumstances) Administratively it could be done without large expenditure to the applicant. PM Rowe told of the prior City standard.

Further discussion was had relating to fencing and the placement in relation to property lines and dwellings.

Commissioner Acevedo asked about commercial horseback riding and training limitations on Home Occupation elements of the Municipal Code. PM Rowe explained the Standards that pertain to keeping of animals and the limitations of Home Occupation enterprises.

COMMISSIONER MUELLER OFFERED RESOLUTION NO. 05-07, RECOMMENDING APPROVAL OF TEXT AMENDMENTS TO CHAPTER 6.36 (ANIMALS AND LAND USE) OF TITLE 6 (ANIMALS) OF THE MUNICIPAL CODE OF THE CITY OF MORGAN HILL, TOGETHER WITH THE FINDINGS AND CONDITIONS CONTAINED THEREIN [AND INCLUSIVE OF THE RE-LETTERING OF EXHIBIT A], AND WITH THE FOLLOWING MODIFICATIONS TO EXHIBIT A FOR INCREMENTAL ADDITIONAL ANIMALS:

(add) Section 3: A maximum of two adult livestock plus two immature offspring for each 40,000 square feet of property owned, then one adult livestock and one immature offspring per (each) next 20,000 square feet up to a 5 acre maximum may be kept, with a fence placed at a maximum 50 feet from the property line; above 5 acres, the fence shall be 100 feet from the property line.

and item H; *(add) allow for youth programs participants, such as 4-H, to raise animals for sale.*

COMMISSIONER BENICH PROVIDED THE SECOND TO THE MOTION, WHICH CARRIED WITH THE FOLLOWING VOTE: AYES: ACEVEDO, BENICH, ESCOBAR, LYLE, MUELLER, WESTON; NOES: NONE; ABSTAIN: NONE; ABSENT: NONE.

COMMISSIONER MUELLER OFFERED A MOTION TO AMEND THE SECTION OF THE MUNICIPAL CODE TO SIMPLIFY THE ANIMAL USE PERMITS, INCLUDING ASKING THE CITY COUNCIL TO TREAT THE MATTER AS A SPECIAL USE PERMIT, WITH DETERMINATION FOR APPROVAL BEING THE RESPONSIBILITY OF THE PLANNING COMMISSION.

Commissioner Lyle stated the idea may not simplify the issue, as the matter can be appealed to City Council.

THE MOTION FAILED FOR LACK OF A SECOND.

**3) ZA-04-24:
CITY OF
MORGAN HILL-
FENCE HEIGHT
AMENDMENT**

A proposed amendment to section 18.56.070 of the Municipal Code to allow fences up to seven feet in height if the section of the fence above six feet is uniformly open, to require fences on street side yards to be setback five feet and to prohibit barbed wire, razor wire and electric fences on any parcel of property in the city that is used for residential purposes.

AP Plambaeck presented the staff report, reminding that in 2003, the Commission discussed the possibility of amending the fence code to allow fences up to seven feet on the property line of side and rear yards. The current requirement is six feet, he said.

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Citing the number of minor exception applications (15 of 38) between 2000 – 2003, Staff requested the Commissioners to discuss amending the Code to allow increased heights. Information was presented regarding recent Code Enforcement complains and a recommended variance for properties adjacent to public parks (a one-foot variance in rear yard to 8 feet total fence height).

Commissioners discussed:

- materials for the increased heights of the fences (Commissioner Acevedo recalled and clarified prohibitions of fencing materials which were specifically identified in previous discussions)
- reasons for the recommendation of property adjacent to public parks (privacy, security, better buffers), need for clarification
- need for consistency at corner lots were safety and vision may be issues
- differences in requirements/allowances (of materials) for perimeter fences

Chair Weston opened the public hearing.

Noting no one present to address the matter, Chair Weston closed the public hearing.

Commissioner Mueller spoke on side yards requirements, saying this could generate nonconformance, and pointing out that old lots may not meet the requirements and will be in non-compliance. PM Rowe stated that if the fences have been legally established, there may be the possibility of ‘grandfathering’. Staff clarified that any fence which is six feet or taller requires a use permit, and must meet code, further indicating that special circumstances may be identified and worked out with Staff.

Commissioner Mueller asked about fencing in landscaping area. PM Rowe clarified that in new developments a landscape easement is required.

Commissioners discussed the need for clarification of the matter, with the suggestion made for better clarification of Section 18.56.070 in items A, B, and C. PM Rowe said Staff will take the ideas presented and include language of clarification to indicate ‘as determined by the Community Development Director’ for handling certain items in-house.

Noting Staff’s assurance for work to achieve consistency and clarification in section 18.56.150 , **COMMISSIONER MUELLER OFFERED RESOLUTION NO. 05-08, RECOMMENDING APPROVAL OF TEXT AMENDMENTS TO CHAPTER 18.55 (EXCEPTIONS AND MODIFICATIONS) OF TITLE 18 (ZONING) OF THE MUNICIPAL CODE OF THE CITY OF MORGAN HILL.**

COMMISSIONER ESCOBAR SECONDED THE MOTION, WHICH PASSED WITH THE UNANIMOUS AFFIRMATIVE VOTE OF ALL COMMISSIONERS PRESENT; NONE WERE ABSENT.

OTHER BUSINESS:

4) CONFIRM WORK PLAN AND APPOINT

PM Rowe reminded the Commission that Section 18.78(C) of the RDCS Ordinance requires the Planning Commission to review the standards and criteria each March following an RDCS competition, to determine whether any changes or amendments are

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SUBCOMMITTEE FOR REVIEW OF OVERALL MEASURE “C” SCORING necessary for the next competition, to begin each new allotment year, within sixty days after the awarding of allotments.

Regarding the Vertical-Mixed Use competition, Chair Weston argued that no one (applicants) understood Vertical-Mixed Use, but thought of it as a way to make the area better looking. He suggested recruiting a professional, experienced firm or person to be on the Subcommittee to assist with clarifying the issues for Vertical-Mixed Use competitions.

Commissioner Mueller identified issues such as changes required for vertical-mixed use (increased density: 15-20 units/acres), saying these are different and difficult to achieve as compared with other competitions. Commissioner Mueller said, “I think of this as a step to look at changes to the standards and criteria. We can better know where we can go from the VTA guidelines. Others who have higher density project expertise from outside the City may be available, and I think this is so intense it needs to be a separate committee.”

Commissioners discussed several issues, including the possibility of establishing two Committees: one for review of the standards and criteria of Measure C and a separate one to identify issues associated with Vertical-Mixed Use.

PM Rowe advised that Staff is looking for direction of the make-up for the committees, and decision as to which Commissioners would be willing to serve, explaining possible make up of the committees. He indicated that Staff is willing to help recruit persons for the committees as directed.

Discussion ensued regarding variation of vertical mixed use downtown. PM Rowe expressed the thought at one committee would be focused on density/mixed-use, then that committee could possibly be folded into the standards and criteria review committee.

Commissioner Escobar clarified that there could be two independent committees starting in parallel, but acting in sequence.

Chair Weston led discussion of the make-up (appointees/volunteers) on each.

Commissioner Escobar referenced the staff time needed if two committees were determined to be needed.

Commissioner Lyle reminded of time frames, and the competitions coming up.

Commissioner Acevedo said he understood the proposal of a Vertical- Mixed Use Committee, asking why the two committees would have to run concurrently? PM Rowe said the intent would be trying to amend the Mixed-Use criteria to assist applicants in gaining acceptable scores. “The intent is to have the criteria clear so the current projects reapply and to have the work plan (standards and criteria review) for all competitions.”

Discussion reactivated regarding makeup of subcommittees; suggestions were: a Developer (perhaps a volunteer from a professional group) with some expertise in Vertical-Mixed Use, architects, community residents, developers, and three

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Commissioners.

Commissioners Lyle, Mueller, and Escobar volunteered to be part of the committees.

Chair Weston stated, "The goal is to have everything prepared for the April 12, 2005 Commission meeting." Commissioner Lyle commented, "It would be difficult, but that is the goal."

BY CONSENSUS, THE COMMISSIONERS DETERMINED THAT THE VERTICAL-MIXED USE COMMITTEE WILL *HAVE PRIORITY*, AND WILL BE COMPOSED OF THE THREE COMMISSIONERS AND THOSE WITH EXPERTISE IN HIGHER DENSITY DEVELOPMENT WHO CAN BE RECRUITED TO VOLUNTEER. THE SECOND COMMITTEE WILL BE COMPRISED OF A COUPLE OF DEVELOPERS (ONE AND AN ALTERNATE), REPRESENTATIVES OF THE SCHOOL DISTRICT, AND 'OTHERS AS APPROPRIATE' FOR REVIEW OF THE STANDARDS AND CRITERIA.

Regarding the work plan, PM Rowe called attention that at a recent City Council/School Board Liaison Committee meeting, the School Board representatives asked the City to consider amending the Measure C Schools category criteria to allow projects to earn points not for providing physical safety improvements, but instead for paying into an endowment /trust fund that could be used to finance 'supplemental educational services'.

PM Rowe advised that other issues include affordable housing, with Commissioner Lyle asking the inclusion of an issue SE Creer raised: buying benefits of a right-of-way.

Commissioner Lyle said that the 14 points in Quality of Construction is limiting. He reminded that a while back, criteria had been suggested as having a developer with experience in Morgan Hill, but the City Council said 'no', so the Committee needs to think of a way to recommend having another point. Commissioner Lyle suggested the Standards and Criteria Committee needs to get started on workable language right away.

ANNOUNCEMENTS: The Planners Institute will be April 13-15 in Pasadena. The Planning Division budget does not provide for out-of-town travel, but has provision for registration and lodging, PM Rowe stated.

PM Rowe reported the City Council tabled, as recommended by the Commission, the Downtown Plan, with the decision being made to defer the matter until the Parking Management Plan is completed. The matter was on the February 2, 2005 consent calendar, but Council Member Tate requested it be pulled, which resulted in tabling rather than adoption.

ADJOURNMENT: With no further business to come before the Commission, the meeting was adjourned at 11:14 p.m.

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MINUTES RECORDED AND PREPARED BY:

JUDI H. JOHNSON, Minutes Clerk

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